

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of May 7, 2013 Meeting

Present: David DeAngelis-Chair, John Bart–Vice Chair, Mark Enander, Stephen Kearns, John Barr, Barry Nickerson, Anthony DeSisto, Esq. (Town Solicitor)

Excused: Lori Lyle

Minutes

Motion made by Member Bart to accept the April 2013 Minutes as presented. Motion seconded by Member Barr. Motion carried by all present.

Correspondence

BAM Realty LLC, 7 Industrial Drive South, Smithfield, RI – Application for Special Use Permit to allow an indoor recreational use of a party venue for property located at 40 Walker Street, Lincoln, RI.

AP 2, Lots 84/96 Zoned MG 05

BAM Realty LLC, 7 Industrial Drive South, Smithfield, RI – Application for a Use Variance to allow parking on another lot other than the lot

**where the use is taken place. Proposed parking on lot 96 for use on
Lot 84, Walker Street, Lincoln, RI. AP 2, Lots
84/96 Zoned MG 05**

Represented by: Attorney Robert Hurley

**Chair read into the record correspondence dated May 1, 2013 from
Attorney Hurley requesting the two applications be withdrawn without
prejudice.**

**Motion made by Chairman DeAngelis and seconded by Member Bart
to accept request to withdraw the application without prejudice.
Motion carried by all present.**

Applications:

**Jeffrey A. Manzo, 62 Verdi Street, North Providence, RI – Application
for Dimensional Variance seeking front setback relief for the
construction of a porch on a new single family home located at 2
Thornwood Drive, Lincoln, RI.**

AP 45, Lot 404 Zoned: RA 40

**Chair read into the record standards that need to be met for a
Dimensional Variance.**

**Applicant purchased the land in August of 2012 and house is
currently under construction and will be owner occupied. Proposed
porch will be esthetic to the neighborhood.**

Chair read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application according to the submitted plans for a dimensional variance from the front yard setbacks for the construction of a porch. The dimensional variance is needed due to the unique shape of the lot and that the foundation was installed years before the present homeowner purchased the property. The existing foundation was installed directly on the setback line. This placement does not allow any room within the setbacks for stairs to the front door. The Planning Board finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Planning Board feels that granting the dimensional variance will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

No opposition present.

Member Bart made a motion to approve Dimensional Variance for 5.22 feet front relief. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a**

physical or economic disability of the applicant.

- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience.**

Motion seconded by Chairman DeAngelis. Motion carried by all present.

Link Commercial Properties LLC, 1150 New London Avenue, Cranston, RI – Application for Special Use Permit for signage for new restaurant and existing bank located at 613 George Washington Highway, Lincoln, RI.

AP 28, Lot 57 Zoned: BL 05

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Chair read into the record standards that need to be met for a Special Use Permit.

Applicant needs total signage of 223.42 sq.ft. which requires 95.43 feet of relief for more than one required sign.

Witness

Edward Pimentel, AICP. Motion made by Member Barr and seconded by Member Enander to accept Mr. Pimentel as an expert witness.

Applicant wishes to conduct business on Route 116, Lincoln. There is a vast right of way on the site. There will be one pylon sign and menu boards on the building. This is an authorized use and application meets all criteria. Proposed use also conforms to the Comprehensive Plan. Pylon sign will have double sided signage. Total required signage is 400 feet, minus the Town 64 square feet ordinance results in 336 sq.ft signage relief.

Witness

James Mandeville, Mandeville Signs

He does almost all the signage for Panera Bread in the area. What applicant is requesting is minimal relief. Signs will be LED illuminated and can be placed on a timer to shut off at 10:00pm per Town requirements.

Chair read into the record Technical Review Committee/Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and the application for a special use permit for new signage at the proposed Panera Bread restaurant located at 613 George Washington Highway. The submitted

application is for a special use permit to allow signage in excess of the allowed square footage and a special use permit to allow a number of signs in excess of the limit allowed under the ordinance. The applicant is proposing three wall signs, one menu board, and one preview board for a total of 160.91 square feet of new signage. The application also includes a double faced free standing sign for the two tenants. The existing signage total on the site is 94.52 square feet. The proposed signage square footage is 223.43 square feet.

The Planning Board recommends Approval of the proposed signage package as presented within the submitted plans. The Planning Board noted that the existing bank and the proposed restaurant are significantly setback from the roadway in excess of 130 feet. The Planning Board feels that the signage package is reasonable giving the unique nature of this property. The Planning Board finds that the applicant presents a realistic signage package for the property and is the least relief needed. The Board feels that granting the special use permits will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Chairman to approve Special Use Permit for 336.0 sq. feet signage relief for one pylon and menu boards to be mounted on the building with a condition that signage will not exceed 400 sq.ft. He further stated:

- That the Special Use is specifically authorized under this Ordinance
- That the Special Use meets all the criteria set forth in this Ordinance

authorizing such special use

- That the granting of the Special Use will not alter the general character of the surrounding area**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan**

Motion seconded by Member Enander. Motion carried by all present.

Presidio Partners, LLC, 1092 Great Road, Lincoln, RI – Application for Dimensional Variance seeking front and side yard relief for the construction of a new home on a vacant lot located on Presidential Way.

AP 26 Lot 129 Zoned: RA 40

Represented by: John Shekarchi, Esq., 132 Old River Road, Lincoln, RI

This application was carried forward from the April agenda. Submitted into the record new site plan as Exhibit #2.

Witness

Scott Rabideau, Department of Environmental Management (DEM)

Motion made by Member Barr and seconded by Member Enander to accept Mr. Rabideau as an expert witness.

Mr. Rabideau visited the site and designed the new site plans. Property was delineated in 1986 and subdivisions were done 2000 to

2003. Department of Environmental Management issued the permits. The wetlands are located in a wooded swamp and 50 foot DEM buffer zones slope on the property. He advised keeping the 50 perimeter intact with a minimum setback of 60 feet from the wetlands. An application to DEM would be needed to alter the wetlands if there is more than 50 feet perimeter buffer.

Mr. Pimentel stated the old design required front setback of 28.24 feet but the revised plan only needs 10 foot relief. Old plan required 29.05 fee side relief but revised plan only needs 11 feet. The building envelope has been reduced.

Witness

David Ragnanese, DLR Designs

He is the house designer for the project. Proposed house will be 3,300 sq.ft with a 2 car garage. Original house plans were revised to better fit the building envelope and will conform to other homes in the area.

Chair read into the record Planning Board/Technical Review recommendations but stated they had not had a chance to view the revised site plan:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for dimensional variances seeking front and side yard relief for the construction of a new home.

The Planning Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. The applicant does not offer any compelling reasoning as to why a new house cannot be designed to fit within the existing building envelope. The submitted site plan and building envelope clearly shows sufficient room to build a house on. The Planning Board feels that the application did not present examples of any efforts to design a house that would fit onto the unique building envelope. The submitted house plans do not represent the least relief necessary. The Planning Board feels that the applicant can easily design and construct a new house that would not require any variances

No opposition present.

Motion made by Chairman to approve the Dimension Variance for 15 feet on southwest corner; 10.89 feet on the south side; 10 feet front relief; and .46 on the northeast corner. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of**

the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience.**

Motion seconded by Member Bart. Motion carried by all present.

Michael V. St. Martin, 3 Longmeadow Road, Lincoln, RI – Application for Dimensional Variance seeking rear yard setback relief for the construction of a deck.

AP 28, Lot 92 Zoned: RA 40

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Proposed deck is partially constructed. Proposed size of deck 936 sq.ft. and existing house 1,354 sq.ft. Applicant needs 18.33 rear relief on northeast corner; 2.81 rear relief on southeast corner; 38.46 feet on northeast corner of the deck; and 45.73 feet rear southeast corner of the deck. House is non-forming.

Witness

Edward Pimentel, AICP

According to the Tax Assessor's office, here was an existing deck prior to construction of the new deck. Applicant had a Class A survey done to ensure accuracy. Old deck was surrounding an above ground pool. New deck would have no negative effects on the

surrounding abutters.

Witness

Ron Lariviere, Registered Contractor License #1576

Met with applicant and agreed he would take out the permit for the deck. He went to Town Hall after the work began to apply for a permit and two days later call to see if the permit was ready. He came to the Town Hall and met with Mr. Pierce four days later who informed him he needed to come before Zoning Board for setback relief. At that point, he stopped construction.

Russell Hervieux, Zoning Official informed the Board that in November of 1994 the Town did a zoning update and most of Limerock area was rezoned. The zoning change caused the setback issue. Back then the deck was six feet wide and was long and narrow. The new deck is smaller than the old deck. The on site pool was demolished a long time ago. The only issue before this Board is with the construction of the new deck. There is no issue with the house.

Witness

Michael V. St. Martin, Owner

Mr. Martin suffers from Parkinson's Disease and the new deck would allow him easier access to his property. He never instructed the contractor to go ahead without a permit. He has spoken with the neighbors and they have no objection to the proposed deck. He

purchased the house in 1985. Size of the new deck is 936 sq.ft.

Chair read into the record Technical Review Committee/Planning Board recommendation: Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The subject deck has been partially constructed without a building permit. The Planning Board recommends Denial of the application for a dimensional variance seeking rear yard setback relief for the construction of a deck. The Planning Board feels that the requested variance of 45 feet is excessive and that the application does not offer any compelling reasoning for this request. The submitted application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. Land slopes at the rear of his property

However, the Planning Board did notice on the plans and during the site visit, that the applicant has sufficient room within the property's setbacks to re-orientate the deck in which a way that may require significantly less dimensional relief. The Planning Board feels that the current site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land.

Attorney Shekarchi submitted into the record correspondence from neighbors stating they had no objection to proposed deck: Kenneth and Tracie Gagnon, 4 Longmeadow Road (Exhibit #1), George and

Susan Walker, 3 Longmeadow Road (Exhibit #2) and James Voyer, 64 Wilbur Road (Exhibit #3).

Chairman inquired if any other options had been explored for the deck size and location. He has issues with the size of the proposed deck. Would applicant entertain continuing the application to the June agenda and return with plans for a smaller deck?

Attorney Shekarchi checked with applicant and requested a continuance to the June agenda to they can return and present the Board with new deck plans also showing the elevation and grading of the property at the rear of the house.

Motion made by Member Bart to continue the application to the June agenda. Motion seconded by Member Enander. Motion carried by all present.

Board members agreed to change the July agenda date from July 2, 2013 to July 9, 2013.

Motion made by Member Barr to adjourn the meeting. Motion seconded by Vice Chair Bart. Motion carried by all present.

Respectfully submitted,

Ghislaine D. Therien

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Recording Secretary